

Frequently Asked Questions about Critical Habitat for the Endangered Arroyo Toad

Q. What is the arroyo toad?

The arroyo toad (*Bufo californicus*) is a small, light greenish-grey or buff-colored toad with dark-spotted, warty skin. Arroyo toads were historically found in streams and river basins in California from San Luis Obispo County to San Diego County, and south to Baja California, Mexico. Within the United States, populations of the arroyo toad are currently found in river basins in Monterey, Santa Barbara, Ventura, Los Angeles, Orange, Riverside, San Bernardino, and San Diego counties. On December 16, 1994, the U.S. Fish and Wildlife Service (Service) listed the species as endangered, under the Endangered Species Act (Act).

Q. What habitats does the arroyo toad need?

Arroyo toads prefer shallow pools and open, sandy stream terraces with cottonwoods, oaks, or willows. They breed in streams that have enough water from late March to mid-June to support the tadpoles until they change into toads. Females lay eggs in shallow, slow moving portions of streams that have little or no vegetation. Juveniles and adults forage for insects on sand and gravel bars with little or no grass or other low-growing cover. Subadult and adult arroyo toads excavate shallow burrows on sand bars, stream side terraces or in the uplands where they shelter during the day when the surface is damp, or for longer intervals during the dry season.

Because arroyo toad habitats are favored sites for water storage reservoirs, flood control structures, roads, agriculture, urban development, and recreational facilities such as campgrounds and off-highway vehicle parks, many arroyo toad populations were reduced in size or eliminated due to extensive habitat loss from 1920 into the 1990s. Arroyo toads have disappeared from about 75 percent of their previously occupied habitat in California; dam construction alone has been responsible for the loss of 40 percent of their original range. The species also faces threats from mining, grazing, recreational activities, and water management practices. Other factors in the arroyo toad's decline include the encroachment of non-native animals such as bullfrogs, bass, and sunfish. These introduced species prey on tadpoles and adults and may significantly reduce the species' ability to maintain healthy populations. Non-native plants such as arundo and tamarisk grow so densely that arroyo toads can not use the terraces for foraging. These plants also shade the pools, making them unsuitable for breeding.

Q. What is critical habitat?

Critical habitat is defined as specific areas that have been found to be essential to the conservation of a federally-listed species, and which may require special management considerations or protection. Critical habitat is determined using the best available scientific and commercial information about the physical and biological needs of the species. These needs include:

- space for individual and population growth, and for normal behavior;
- food, water, light, air, minerals or other nutritional or physiological needs cover or shelter;
- sites for breeding, reproduction, and rearing of offspring; and,

- habitat that is protected from disturbance or is representative of the historical geographic and ecological distribution of a species.

We have designated 182,360 acres of land, identified in 22 areas, as critical habitat for the arroyo toad. The 22 critical habitat units contain a mosaic of habitats that provide for breeding, development and growth of eggs and tadpoles, growth and maturation of juveniles and subadults, foraging, sheltering, and living spaces for arroyo toads, as well as migration and dispersal corridors.

In order for lands to be included in the final critical habitat designation, we first determined the areas that are “essential to the conservation of the species.” The critical habitat designation also identifies, to the extent known, habitats that contain the primary constituent elements essential for the life cycle needs of the arroyo toad. All areas designated as critical habitat for the arroyo toad contain at least one of the primary constituent elements essential to the conservation of the species.

Q. What are primary constituent elements?

Primary constituent elements are those habitat components that are essential for the life cycle needs of the arroyo toad. These primary constituent elements include:

- rivers or streams that are capable of providing sufficient flowing water, of suitable quality, to provide space, food, and cover needed to sustain eggs, tadpoles, metamorphosing juveniles, and adult breeding toads;
- gently sloping stream gradients that contain sandy or fine gravel substrates that support formation of shallow pools and sparsely vegetated sand or gravel bars for breeding a rearing of tadpoles and juvenile toads;
- upland habitat, particularly alluvial terraces and adjacent valley bottomlands, that include areas of loose soil with dependable substrate moisture where toads can burrow underground;
- stream channels and upland areas where toads can migrate to overwintering sites, disperse between populations, or recolonize areas that contain suitable habitat.

Q. How does a listed species benefit from the designation of critical habitat?

Regardless of any critical habitat designations, federally listed endangered or threatened wildlife species are protected from take or harm. Within critical habitat boundaries, listed plants and animals receive the same protection as species outside the boundaries. However, designation of critical habitat focuses attention on areas that are essential to the conservation of a species and helps ensure Federal agencies are aware their obligation to consult with the Service on Federal activities that may affect the long-term survival of the species.

Q. What protection does the arroyo toad currently receive as a listed species?

The Act forbids the import, export, or interstate or foreign sale of protected animals and plants without a special permit. It also prohibits the "take" of federally listed wildlife. "Take," as defined under the Act, means to harass, harm, pursue, hunt, shoot, wound, kill, trap, capture, collect, or to attempt to engage in any such conduct. Federal agencies must consult with the Service to insure that projects they authorize, fund, or carry out are not likely to jeopardize the continued existence of any endangered or threatened species, or result in the destruction or adverse modification of a species' designated critical habitat.

Permits may be issued by the Service for activities that are otherwise prohibited under the Act, if these activities are for scientific purposes or to enhance the propagation or survival of the affected species, or for "take" that is incidental to otherwise lawful activities.

Q. In the proposed rule published in July 2000, the Service proposed to designate 478,400 acres as critical habitat. Why is the Service now designating critical habitat on only 182,360 acres?

To ensure that any final action would be as effective as possible, the Service asked for public comments and information at the time we published our proposal to designate critical habitat for the arroyo toad. Based upon all comments and information received, we determined that 39,000 acres at Marine Corps Base Camp Pendleton should not be included; 55,000 acres were not considered essential to the conservation of the toad; and the remaining acreage was not included because the Service was able to more precisely map areas that contain habitat essential for the conservation of the arroyo toad. The more precise mapping made it possible to exclude many significant urban or developed areas within the critical habitat boundaries.

Q. Who owns the property designated as critical habitat for the arroyo toad?

About 80,290 acres designated for protection are managed by federal, state or local agencies, and about 102,070 acres are private property. An additional 4,260 acres are on Trust lands of six Native American tribes. A significant percentage of the stream, riparian, and upland habitats for the arroyo toad are on lands managed by the U.S. Forest Service and the Department of the Army. Some of the areas designated as critical habitat for the arroyo toad overlap areas of critical habitat for other federally listed species, such as the coastal California gnatcatcher.

Q. What happens if my private property is designated critical habitat for the arroyo toad?

The designation of critical habitat on privately owned land does not mean the government wants to acquire or control the land. Designated critical habitat includes areas that currently support the arroyo toad and habitat essential for the conservation of the species. Activities on private lands that do not require federal permits or funding are not affected by a critical habitat designation. Critical habitat does not require landowners to carry out any special management actions or restrict the use of their land. However, the Act prohibits any individual from engaging in unauthorized activities that will actually harm listed wildlife.

Activities on private or state lands requiring a permit from a federal agency are subject to the section 7 consultation process. Permits or funding for a project may be required from the Environmental Protection Agency under the Clean Water Act, the Army Corps of Engineers, or other federal actions, such as funding from the Federal Highway Administration or the Natural Resources Conservation Service.

If a landowner needs a federal permit or receives federal funding for a specific activity, the agency responsible for issuing the permit or providing the funds would consult with the Service to determine how the action may affect the arroyo toad or its designated critical habitat.

Q. What were the findings of the economic analysis that was completed as part of the critical habitat designation process?

Overall, the economic analysis found that there will be no significant economic impacts resulting from the designation of critical habitat for the arroyo toad beyond those incurred as a result of the toad's listing. The economic analysis concluded that some activities within the designated areas may face additional section 7 consultations as a result of the federal government's responsibility to ensure that actions they authorize, fund, or carry-out do not adversely modify critical habitat. The total cost of such impacts, according to the analysis, is expected to be about \$500,000 over a ten-year period.

The economic analysis was based on public comments received on the proposed rule and draft economic analysis, information about current and future planned land uses, and input from Federal agencies. This information was used in the analysis to estimate the potential impacts that critical habitat designation could have on both current and likely future activities taking in the designated areas that may result in the need for additional section 7 consultations. The Act requires the Service to prepare an economic analysis for any proposed critical habitat designation. Its purpose is to identify and analyze the potential economic impacts that may result from such a designation, above those stemming from the listing of the species.

Q. Is critical habitat designated for all listed species?

No. Critical habitat has been designated for 134 of the 1,235 species currently listed as threatened and endangered under the Act. The Act requires the Service to identify critical habitat at the time a species is listed. However, in some cases, designating critical habitat may be considered "not prudent" if it would cause harm to the species, such as increasing the possibility of vandalism or collection. Or we may find that such a designation is "not determinable" if we don't have enough information when a species is listed to define areas as critical habitat.

Q. Why is the Service designating critical habitat on Trust Tribal lands?

We have determined that approximately 4,260 acres of Tribal Trust lands are essential to the conservation of the arroyo toad and are designated as critical habitat for the species. These lands include portions of the Pala, Rincon, Capitan Grande, Sycuan, Viejas, and Soboba Reservations. In accordance with the President's Memorandum of April 29, 1994, "Government-to-Government Relations with Native American Tribal Governments," we have coordinated with each of the affected tribes.

Q. Why have lands on Marine Corps Base, Camp Pendleton excluded from the critical habitat designation?

We proposed designating approximately 39,000 acres on Camp Pendleton as critical habitat for the arroyo toad. During the comment periods on our proposal, the Marines expressed concern that designation of critical habitat for the arroyo toad on Camp Pendleton had the "potential to...substantially degrade the military capabilities of both the installation and assigned operational forces."

Section 4(b)(2) of the Act allows us broad discretion to exclude from critical habitat designation areas where the benefits of exclusion outweigh the benefits of inclusion, provided the exclusion will not result in the extinction of the species. We determined that the benefits of excluding Camp Pendleton from critical habitat designation for the arroyo toad are greater than the benefits of including it in the critical habitat designation; further, we determined that excluding Camp Pendleton will not lead to the extinction of the arroyo toad.

Q. What about lands already being conserved through Habitat Conservation Plans? Why are these

areas being excluded?

A number of Habitat Conservation Plans (HCP) have been completed within the range of the arroyo toad. These include the Natural Community Conservation Planning efforts in San Diego and Orange counties, and the Multi-Species Conservation Plan (MSCP) and Multiple Habitat Conservation Plan efforts in San Diego County. With one exception, critical habitat is not being designated for non-federal and private lands within the boundaries of approved HCPs where incidental take permits have been authorized for the arroyo toad. We have designated critical habitat for the arroyo toad on the Sweetwater River between the Loveland and Sweetwater Reservoirs. Although this area lies within the boundary of the approved and implemented San Diego MSCP, the activities that occur in this area are outside the authority of the MSCP.

Q. How will the designation affect recreation in the national forests?

Because the arroyo toad is a listed species, its presence on national forest land has resulted in consultation with the national forests regarding recreational activities, grazing, and ongoing operations and maintenance. Closure of some areas occupied by arroyo toads in recent years have been implemented as a result of land slides, fires, and habitat degradation, as well as to protect the toad. It is unlikely that the finalization of critical habitat will result in closures directly related to the critical habitat designation.

Q. How will the designation of critical habitat affect activities for which a party has already consulted with the Service under section 7 of the Act?

Federal regulations require agencies to reinitiate consultation with the Service on previously reviewed actions if critical habitat is designated after the initial consultation, and if those actions may affect critical habitat. This applies only if those agencies have retained some type of involvement or control over the action, or if such involvement is authorized by law. Federal agencies may request to reinitiate consultation with us if a project is likely to affect critical habitat.

Q. What happens if a project is reviewed as part of a reinitiation of consultation and the Service determines it will adversely modify critical habitat?

It is highly unlikely that an activity that was reviewed and permitted by the Service under section 7 of the Act prior to the designation of critical habitat will be changed because critical habitat has now been finalized for the area. When reviewing projects under section 7, we must determine if the proposed action will "jeopardize the continued existence" of a species by asking the question "*will the project appreciably reduce the likelihood of the species' survival and recovery?*" A project that will "destroy or adversely modify" critical habitat is one that will appreciably reduce the value of critical habitat for the survival and recovery of the species. Regardless of whether critical habitat has been designated, we must still consider the effect a project may have on the continued existence and recovery of a listed species.